S.B.CRIMINAL MISC.TRANSFER PETITION NO.10/2006
(Ganesh Lal Vs. Smt.Asha)

Date of order : : 21.05.2007

HON'BLE MR. KRISHAN KUMAR ACHARYA, J.

Mr.Anuj Sahlot, for the petitioner.
Mr.Shambhoo Singh]
Mr.Bharat Shrimali], for the non-petitioner.

This misc. transfer petition has been filed by Ganesh Lal for transfer of the criminal case No.334/2005 from the court of Chief Judicial Magistrate, Doongarpur to the Family Court, Udaipur.

Learned counsel for the petitioner states that petitioner filed a petition under Section 13 of the Hindu Marriage Act in the Family Court, Udaipur for dissolution of his marriage solemnized with the non-petitioner Smt.Asha and thereafter, she has filed an application under Section 125 Cr.P.C. in the Court of Chief Judicial Magistrate, Doongarpur on 24.11.2005 against the petitioner which is still pending. It is contended that petitioner is dumb and deaf and if the aforesaid maintenance case is not

transferred to the Family Court, Udaipur, it will be hazardous to the petitioner. It is further contended that no inconvenience or hardship is likely to be caused to the non-petitioner as she is already defending herself in the Family Court, Udaipur in the petition under Section 13 of the Hindu Marriage Act filed by the petitioner.

Learned counsel for the non-petitioner states that non-petitioner is lady. She has filed application under Section 125 Cr.P.C. before the Court of Chief Judicial Magistrate, Doongarpur who has got jurisdiction to try the aforesaid maintenance case. She wants to produce her witnesses and it is difficult for her to travel from Doongarpur to Udaipur. It is also contended that petitioner is Government Servant. Merely on the ground that divorce petition filed by the petitioner is pending in the Family Court, Udaipur, the aforesaid maintenance case should not be transferred.

I have considered the rival arguments advanced by learned counsel for both the parties and gone through the relevant documents. The non-petitioner is lady. She has filed an

application for maintenance before the Chief Judicial Magistrate, Doongarpur which is still pending. Though the petitioner under Section 13 of the Hindu Marriage Act filed by the petitioner is pending in the Family Court, Udaipur but it is not the good reason for transfer of the maintenance case pending in the court of Chief Judicial Magistrate, Doongarpur. The petitioner is Government Servant. Looking to all the facts and circumstances of the case, I do not find any good ground to transfer the maintenance case from the court of Chief Judicial Magistrate, Doongarpur to the Family Court, Udaipur.

Accordingly, this misc. petition is dismissed.

(KRISHAN KUMAR ACHARYA), J.

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